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File Number:

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VIA ECF

The Honorable Ronnie Abrams
United States District Court for the Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square, Courtroom 1506
New York, NY 10007

Re: Tyrone Holmes v. City of New York, et al., Case No. 1:19-cv-01628-RA (S.D.N.Y.)

Dear Judge Abrams:

We represent Defendant Apple Inc. in the above-captioned matter ("*Holmes II*"). We write to renew our request that the court stay all briefing and resolution of Plaintiff Tyrone Holmes's March 9, 2022 Motion to Vacate Judgment in this case (the "*Holmes II* Motion") (*Holmes II* Doc. 119 (March 9, 2022)). Your Honor has been assigned a related case, *Holmes v. Apple Inc.*, 1:17-cv-04557-RA (S.D.N.Y.) ("*Holmes I*"). *Holmes I* and *Holmes II* arise from a single set of facts and are presently in the same procedural posture. Hon. Edgardo Ramos was previously assigned to both *Holmes I* and *Holmes II*, and he dismissed both cases. (See *Holmes I* Doc. 121; *Holmes II* Doc. 117.) Currently pending before Your Honor is Plaintiff's February 4, 2022 Motion to Vacate Judge Ramos's judgment in *Holmes I* ("*Holmes I* Motion") (*Holmes I* Doc. 148 (February 4, 2022)), which is fully briefed and is materially identical to the *Holmes II* Motion (*Holmes II* Doc. 119 (March 9, 2022)). On March 10, 2022, Apple therefore requested that *Holmes II* be transferred to Your Honor and further requested that the court stay resolution of the *Holmes II* Motion pending Judge Abrams' resolution of the *Holmes I* Motion. (*Holmes II* Doc. 120.) The Court has not resolved Apple's request that briefing and resolution of the *Holmes II* Motion be stayed pending Your Honor's resolution of the *Holmes I* Motion. Given the substantial overlap between *Holmes I* and *Holmes II* and the highly unusual procedural posture of this case, we respectfully renew our request that the court stay all briefing and resolution of the *Holmes II* Motion.

Motion filed in Holmes I and assigned to Your Honor. On January 21, 2022, the Clerk of Court issued a letter in *Holmes I* disclosing Judge Ramos's ownership interest in Apple Stock (*Holmes I* Doc. 146). On February 4, 2022, Plaintiff filed the *Holmes I* Motion seeking to vacate Judge Ramos's July 24, 2018 judgment in *Holmes I* in response to the Clerk of Court's January 21, 2022 letter. (*Holmes I* Doc. 148.) *Holmes I* was then reassigned to Your Honor on February 16, 2022, in accordance with the Clerk of Court's January 21, 2022 letter for Your Honor to consider Plaintiff's *Holmes I* Motion without the participation of Judge Ramos. Apple responded

to the *Holmes I* Motion on March 4, 2022. (*Holmes I* Doc. 159.) Plaintiff's *Holmes I* Motion is currently under review by Your Honor.

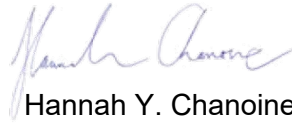
Nearly identical motion filed in *Holmes II*. On January 31, 2022, the Clerk of Court issued in the above-captioned matter a letter materially identical to the January 21 letter in *Holmes I*. (*Holmes II* Doc. 118). Plaintiff has now filed the *Holmes II* Motion seeking to vacate Judge Ramos's February 26, 2020 order dismissing all of Plaintiff's claims *Holmes II* with prejudice. (*Holmes II* Doc. 119.) This motion is nearly identical to the *Holmes I* Motion.

***Holmes II* was reassigned to Your Honor.** On March 10, 2022, Apple requested that *Holmes II* be transferred to Your Honor and further requested that the court stay resolution of the *Holmes II* Motion pending Judge Abrams' resolution of the *Holmes I* Motion. (*Holmes II* Doc. 120.) *Holmes II* was reassigned to Hon. Vernon S. Broderick on March 11, 2022. Because Apple was required to respond on the merits to the *Holmes II* Motion by March 23, 2022 under Southern District of New York Local Rule 6.1(b) while Apple's request that *Holmes II* be transferred to Your Honor and stayed was still pending, on March 22, 2022, Apple requested that the court extend Apple's time to respond to the *Holmes II* Motion to fourteen days following the court's resolution of Apple's March 10, 2022 letter requesting that the above-captioned matter be transferred to Your Honor (*Holmes II* Doc. 120). Apple's request for an extension of time was granted on March 23, 2022. (*Holmes II* Doc. 127.) On April 11, 2022, *Holmes II* was reassigned to Your Honor. The Court has not resolved Apple's request that briefing and resolution of the *Holmes II* Motion be stayed pending Your Honor's resolution of the *Holmes I* Motion.

Good Cause exists to stay resolution of the *Holmes II* Motion. Because Your Honor is already considering Plaintiff's fully briefed and materially identical *Holmes I* Motion, good cause exists to stay briefing and resolution of the *Holmes II* Motion pending resolution of the *Holmes I* Motion. Both the underlying facts of *Holmes I* and *Holmes II* and Plaintiff's motions to vacate Judge Ramos's judgments and orders in both matters concern the same or substantially similar parties, property, transactions, or events, and there is substantial factual overlap between the two matters and the two motions. Staying briefing and resolution of the *Holmes II* Motion serves the interest of judicial economy and will avoid subjecting the parties to conflicting orders and substantial duplication of effort and expense, delay, or undue burden on the Court, parties or witnesses, because Your Honor is already evaluating Plaintiff's materially identical *Holmes I* Motion.

For these reasons, we respectfully renew our request that briefing and resolution of the *Holmes II* Motion be stayed pending Your Honor's resolution Plaintiff's materially identical *Holmes I* Motion.

Respectfully Submitted,



Hannah Y. Chanoine
of O'MELVENY & MYERS LLP

cc: Plaintiff Tyrone Holmes and all counsel

Application granted. The parties' briefing deadlines with respect to Plaintiff's March 9, 2022 motion are stayed until further notice. All other deadlines in this case are stayed until further notice. The Clerk of Court is respectfully directed to mail a copy of this endorsement to Plaintiff.

SO ORDERED.



Hon. Ronnie Abrams
April 19, 2022